FARAD CONTINUATION SHEET

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 632 OF 2004

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

Shri Surel S. Shah, advocate for the Appellant.
Shri Niranjan P. Shimpi, advocate for the Respondents.

CORAM: A.S. OKA, J.
DATE : 17th August, 2004.

P.C.:-

1. Heard learned counsel appearing for the parties.

2. The Appellant is an Obstructionist. His case as pleaded appears to be that the suit land was a joint family property in the hands of his father Dadarao, one Savalaram and Tatya. The Trial Court as well as the Appellate Court has relied upon the admission given by the Appellant in his cross-examination that the suit land was a self acquired property of Savalaram, Tatya and Dadarao. On the basis of the said admission, the Courts below came to the conclusion that the said

admission falsifies the contention raised by the Appellant.

3. Shri Shah, learned Counsel appearing for Appellant relied upon the admission given by the decree holder to the effect that it was a joint family property of three brothers.

4. If the Appellant/-Obstructionist approaches the court with a specific case that as the suit land was a joint family property in the hands of his father and two others, he is entitled to share in the property of birth and if he clearly admits that it was self acquired property of his father and two others, he cannot rely upon the vague statement made by the decree holder in the cross-examination. In view of the admission given by the Appellant, it is very clear that he cannot claim to have acquired any right in the suit land on his birth. In view of this position, no substantial question of law arises. No orders as to costs.

JUDGE

JUDGE